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THE WHITE HOUSE

WASHINGTON

MEMORANDUM TO: Katie McGinty
FR: Will Stelle *WJS*
RE: Delisting the Owl
DATE: 25 April

You asked this morning to check out the delisting issue.

Region 1 of the FWS sent in a recommendation that the petition to delist the northern Ca owl be accepted as "warranted" under the ESA and a process begun to prepare a delisting proposal.

The Washington DOI/FWS sent it back with instructions that the petition be judged as not warranted based on the legal inability to deal with the geographic population of northern California -- that is not a separate population as per the ESA. The northern Ca area is identified for administrative reasons -- the state's management regime -- and didn't have anything to do with the listing or delisting criteria under the ESA. DOI Solicitors weighed in heavily and argued against delisting on these grounds, and I believe carried the day.

DOI expects the region to send back a new recommendation that is to reject the petition on legal/policy grounds. Timing is not clear.

This is not good news, and will go down like a ton of bricks. It can be offset in part by an aggressive 4(d) rule for the same area that seeks as an operational matter to get to the same point - but it misses the huge political benefits of a delisting effort.

Do we think this judgment is correct ?? I'd like to understand the thinking. Let's call a mtg w/ Frompton & Ashby. This is too big a deal.



United States Department of the Interior

FISH AND WILDLIFE SERVICE

WASHINGTON, D.C. 20240



ADDRESS ONLY THE DIRECTOR
FISH AND WILDLIFE SERVICE

In Reply Refer To:
FWS/AES

OCT 13 1993

Memorandum

To: Secretary *Don Barry*
Through: George T. Frampton, Jr.
for Assistant Secretary for Fish and Wildlife and Parks
From: Director

Subject: Briefing Paper on Northern Spotted Owl Habitat in California

We have been requested by the White House to provide the President a briefing statement on the Spotted owl habitat in California. Specifically, we were asked to discuss the owl's use of non-old growth forests. The statement is attached.

Hollis V. Bester

Attachment

BRIEFING STATEMENT

Prepared for: White House
Submitted: October 12, 1993

State: California

TITLE: Northern Spotted Owl Habitat in California

ISSUE:

- o The northern spotted owl is best known as an inhabitant of old-growth forests in the Pacific Northwest. It also occurs in habitat that is not typical old growth in certain parts of its range, particularly in California.

KNOWLEDGE OF OWL HABITAT AT THE TIME OF LISTING:

- o Suitable nesting, roosting, and foraging habitat is of great importance in maintaining reproductive success and population stability of the northern spotted owl. At the time it was listed in 1990, the northern spotted owl was believed to nest in older forests or in older stands remaining unharvested in younger forest. The habitat relationship was not believed to be dependent on the age of trees per se, but on the structure of stands that provided nesting habitat.
- o The final rule listing the owl recognized that in California, particularly in the coastal redwood zone, the multi-layered canopy structure typical of old-growth was present in younger stands than was the case in Oregon and Washington. Research at the time indicated that owls in California did not select young forest for nesting unless it possessed the structural characteristics of old-growth forest, and available published data described most nest and roost locations as occurring in old stands.
- o A panel of scientists, convened to advise the Fish and Wildlife Service (Service) during consideration of the listing decision, made a special examination of selectively harvested private lands in California. The panel found suggestive evidence that owls may persist in selectively harvested interior sites in California, and that in the redwood zone, owls may move rather quickly into fast-growing second growth redwood areas, particularly if remnant older trees are present.

CURRENT KNOWLEDGE OF HABITAT RELATIONS:

- o Since the listing, several industrial timber companies have surveyed their properties for northern spotted owls, and California forestry regulations have required surveys of proposed private timber harvest plans within the range of the subspecies. These surveys have located substantial numbers of owls in managed timber stands (i.e., stands that have been harvested to varying degrees in the past), especially in the

coastal redwood region. As of 1992, the interagency data base contained records of over 500 confirmed pairs on non-Federal lands, comprising over 45 percent of the State's population.

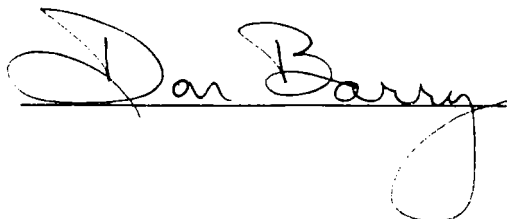
- o These findings have led to a new understanding of the ecology of the northern spotted owl in northern California. In this highly productive area, northern spotted owls nest and roost in stands of large second-growth timber, which, though perhaps only 50 to 80 years old, are similar in appearance to the older, un-entered stands more commonly associated with spotted owls. They also nest in remnant old-growth stands surrounded by second-growth.
- o This phenomenon appears to be limited to lower-elevation forests of northern and central California and southwestern Oregon; i.e., the range of the dusky-footed woodrat, a primary prey species of the owl. This woodrat does not occur at higher elevations in the interior of California, nor in most of Oregon and Washington. In those areas, the primary prey species is the northern flying squirrel, which reaches maximum densities in old stands with substantial amounts of decaying wood. Thus, the owl remains largely confined to old-growth stands in the majority of its range.
- o The implementation of Option 9 under FEMAT will help secure the status of the spotted owl in northern California, further buttressing arguments for the eventual delisting of the owl in that State.

POSITION OF MAJOR CONSTITUENCIES:

- o Recently, the timber industry petitioned the Service to de-list the subspecies in California, largely based on the number of owls found in managed timberlands. The Service will evaluate the merits of the petition within 90 days as required under the Endangered Species Act (ESA). As required by the ESA, the Service will evaluate the petition within 90 days to determine whether it presents substantial information indicating that de-listing in California may be warranted. If the Service makes a positive finding on this issue, it will review the status of the owl in California and must make a final decision on whether de-listing is warranted within 12 months of the filing of the petition.

CONTACT: Mike Spear
Assistant Director - Ecological Services
Fish and Wildlife Service
(202) 208-4646

for A/S SURNAME:

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*1 SPECIES ACT: GORTON-SHELBY BILL CALLS FOR MORE INPUT

Sens. Slade Gorton (R-WA) and Richard Shelby (D-AL) yesterday introduced legislation that they said would "bring balance" to the Endangered Species Act by "considering the economic impacts on communities and strengthening the role of science in determining the listing of species." Gorton: "The original intent of the ESA -- to protect species from becoming extinct -- is an admirable goal. ... [But] changes to the ESA must be made now in order to end ... unintended and disastrous results." Features of the Gorton-Shelby bill:

- The decision on whether to list a species would remain based "solely on thorough science."
- Any person could request peer review and input from a National Academy of Sciences panel during the 90-day comment period on listing decisions.
- The Dept. of the Interior would be required to consider state and industry data on species status.
- The bill "requires, rather than allows," the Interior Sec'y to exclude areas from critical habitat based on "balancing" impacts and benefits to communities.
- The federal gov't would be required to compensate landowners whose property was devalued by ESA actions.

US Sens. Bob Packwood (R-OR), Thad Cochran (R-MS), Harlan Mathews (D-TN), and Howell Heflin (D-AL) are cosponsors of the bill (Gorton release, 10/6). Barry Cullen, senior VP of the American Forest and Paper Assn., praising the Gorton-Shelby bill: "Species protection is a worthy goal -- one our industry supports -- but it should not be borne on the backs of workers and landowners" (AFPA release, 10/6).

*2 SPECIES: DROP IN OWL REPRODUCTION NOT LINKED TO LOGGING

This year has been a bust for northern spotted owl reproduction, say biologists, but the causes seem unrelated to habitat loss and no crackdown on logging is expected. Owls on the Olympic Peninsula and in parts of western Oregon produced "few or no offspring" in 1993, highlighting "the mysteries that remain to be solved in the biology of the spotted owl and many other rare species as the region wrestles with how to preserve them." One cause for the drop may have been the warm, dry summer of 1992, which might have inhibited the growth of fungi eaten by flying squirrels, a staple food for spotted owls. Biologists aren't sure how many spotted owls remain, but adult survival rates, not birthrates, determine long-term population trends, biologists say (Rob Taylor, SEATTLE POST-INTELLIGENCER, 10/6).

SAFE IN CALIFORNIA?

The CA Forest Assn. said the spotted owl population has been underestimated and asked the US Fish and Wildlife Service to remove the owl from the endangered list in CA. Officials estimated the bird's population when it was listed in 1990 at between 6,000 and 8,000 in the Pacific Northwest. The CFA says there are now 8,500 owls in Northern CA alone (USA TODAY, 10/7).

*3 SPECIES II: A FLY IN BUSINESSES' OINTMENT?

For "the first time in the 20-year history of the Endangered Species Act," the US Fish and Wildlife Service has extended federal protection to a fly. On 9/22, the Delhi Sands flower-loving fly, "found only at five sites" near Colton, CA, "joined about 600 plants and animals on the list of endangered species." Enviro's "praised the decision as a last-minute reprieve" for the

Will not good news for 4(d) rule, etc.
Let's get an answer to the Pres. on this ASAP!!

~~Will~~

1 Please get an
answer deep
to President's
question. see
back

THE WHITE HOUSE

WASHINGTON

October 1, 1993

MEMORANDUM FOR THE PRESIDENT

FROM: Peter Yu

SUBJECT: Q & A on Northern California Forest Issues

Background

Earlier this week in northern California, the Departments of Agriculture and Interior held a hearing and outlined in greater detail your Forest Plan for the Pacific Northwest and northern California. The hearing was animated and the local press was negative.

The Plan, which sharply reduces timber harvests on federal lands in Oregon, Washington, and northern California, will have a modest effect on northern California--only about 15 percent of the job loss will occur in that area. (Administration economists estimate that 6,000-16,000 jobs will be lost in the three States, although industry estimates range from 30,000-80,000.)

The economic-adjustment portion of the Plan, which provides \$1.2 billion over five years in new federal assistance, has fared *very well* in the appropriations process to date. One major victory--strongly supported by the local governments in northern California--was won during reconciliation when revenues from the elimination of log-export incentives were redirected to timber-dependent counties. The bill replaced, for ten years, the revenue-sharing formula, under which counties received 25 to 50% of the revenue generated by timber sales, with a slowly declining schedule of payments. This schedule provides the counties with a predictable source of funding and creates a more attractive investment climate for business and industry. In addition, we have, through administrative commitments and congressional action, secured funding for *at least 90% of your proposed economic adjustment package for the region.*

Possible Question & Suggested Answer

Q: *Earlier this week local officials criticized your plan for federal forest lands in northern California, charging that the plan will create more economic distress for a region already in a deep recession. How do you respond?*

A: As I noted in announcing the Forest Plan, I was troubled by the very narrow range of policy options available. Years of gridlock and decades of indecision have left us with

little choice. Overall, we crafted a balanced solution--and one that allows the maximum harvest permitted under existing laws. While the planned harvest is lower than historic levels, my Plan has timber sales moving once again and will provide a stable harvest of 1.2 billion board feet per year.

My Administration was the first to address the economic as well as the ecologic dimensions of these difficult issues. I have outlined a \$1.2 billion, 4-year plan to create new economic opportunities in these communities to provide economic security for local governments, to encourage new businesses and industries, and to retrain workers. My Administration has worked diligently to implement this package. Two critical components--elimination of log export subsidies and stabilization of county payments--were enacted during reconciliation. Overall, I am confident that, when all of the appropriations actions are completed, we will have secured at least 90% of the new federal monies called for in my Plan.

10/6

THE PRESIDENT HAS SEEN

Tatie Allen is in Calif. I was
hit w/ the claim that there
is no further reports and that there
was no further reports - I must be
wrong what the basis of that
is